IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 29713 of 2006(K)

PETITIONER:

S.A.THAHA, AGED 39 YEARS,
S/O. E.K.ABDUL KHADER, SADAR MANZIL,
KUMMANAM P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS:
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1. THE GEOLOGIST,
MINING AND GEOLOGY DISTRICT OFFICE,
COLLECTORATE P.O., KOTTAYAM DISTRICT.

2. THE SUPERINTENDENT OF POLICE,
S.P.OFFICE, COLLECTORATE P.O.,
KOTTAYAM DISTRICT.

3. THE ADDITIONAL SECRETARY,
INDUSTRIES DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI BENNY GERVASIZ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C)Nos.29713, 30799 & 30565 OF 2006

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Dated this the 28th day of November 2006

REFERENCE ORDER

Petitioners are challenging the conditions imposed in the mining license prohibiting sand mining through mechanised process. This condition is apparently against Rule 29(g) of the Mineral Concession Rules. However, the issue is covered against the petitioner's vide judgment of this court in **Soman v. Geologist [2004 (3) KLT 577].** In all these cases, mining of sand is from land and not from river banks. This court in the decision reported in **Sivadas v. Geologist, Mining and Geology Department [2003 (2) KLT 312]** held that when restrictions are imposed in collecting sand from rivers, Government should encourage and help mining of sand from land because sand is an essential item for construction industry, which is currently thriving and has given a boost to the economy. If mechanised mining is prohibited, cost of processing will go up on account of increased wages and such restriction will serve no other purpose. It is common knowledge that sand deposits in land will always be mixed with mud and water is required for

washing it which has to be pumped out from some source. The main grievance of the petitioners is against denial of permission to use pump for washing mineral sand. I see no reason why this should be prohibited.

2. I am of the view that the condition imposed in the licence virtually makes business difficult or atleast not viable. Since apparently conflicting views are expressed in the above two judgments, I feel these writ petitions should be considered by Division Bench.

In the circumstances, writ petitions are referred to Division Bench for decision. Registry shall place these before the Division Bench for appropriate orders.

C.N.RAMACHANDRAN NAIR, JUDGE

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